

AMENDED IN SENATE MAY 8, 2013  
AMENDED IN SENATE APRIL 24, 2013  
AMENDED IN SENATE APRIL 16, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 492**

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**Introduced by Senator Hernandez**

February 21, 2013

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An act to amend Sections 3041 and 3041.1 of the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 492, as amended, Hernandez. Optometrist: practice: licensure.

The Optometry Practice Act creates the State Board of Optometry, which licenses optometrists and regulates their practice. Existing law defines the practice of optometry to include, among other things, the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and doing certain things, including, but not limited to, the examination of the human eyes, the determination of the powers or range of human vision, and the prescribing of contact and spectacle lenses. Existing law authorizes an optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat specified conditions, use specified pharmaceutical agents, and order specified diagnostic tests. Any violation of the act is a crime.

This bill would add the provision of habilitative optometric services to the definition of the practice of optometry. The bill would expand the practice parameters of optometrists who are certified to use

therapeutic pharmaceutical agents by removing certain limitations on their practice and adding certain responsibilities, including, but not limited to, the ability to immunize and treat certain diseases, and deleting the specified drugs the optometrist would be authorized to use, and authorizing the optometrist to use all therapeutic pharmaceutical agents approved by the United States Food and Drug Administration, as provided. The bill would also delete limitations on ~~what~~ *certain* kinds of diagnostic tests an optometrist ~~could~~ *can* order and ~~instead~~ would authorize an optometrist to order appropriate laboratory and diagnostic imaging tests, *as provided*.

Existing law requires optometrists in diagnosing or treating eye disease to be held to the same standard of care as physicians and surgeons and osteopathic physicians and surgeons.

This bill would expand this requirement to include *diagnosing* other diseases, and would require an optometrist to consult with and, if necessary, refer to a physician and surgeon or other appropriate health care provider if a situation or condition was beyond the optometrist's ~~education and training~~ *scope of practice*.

Because this bill would change the definition of a crime, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3041 of the Business and Professions
- 2 Code is amended to read:
- 3 3041. (a) The practice of optometry includes the prevention
- 4 and diagnosis of disorders and dysfunctions of the visual system,
- 5 and the treatment and management of certain disorders and
- 6 dysfunctions of the visual system, as well as the provision of
- 7 habilitative or rehabilitative optometric services, and is the doing
- 8 of any or all of the following:

1 (1) The examination of the human eye or eyes, or its or their  
2 appendages, and the analysis of the human vision system, either  
3 subjectively or objectively.

4 (2) The determination of the powers or range of human vision  
5 and the accommodative and refractive states of the human eye or  
6 eyes, including the scope of its or their functions and general  
7 condition.

8 (3) The prescribing or directing the use of, or using, any optical  
9 device in connection with ocular exercises, visual training, vision  
10 training, or orthoptics.

11 (4) The prescribing of contact and spectacle lenses for, or the  
12 fitting or adaptation of contact and spectacle lenses to, the human  
13 eye, including lenses that may be classified as drugs or devices by  
14 any law of the United States or of this state.

15 (5) The use of topical pharmaceutical agents for the purpose of  
16 the examination of the human eye or eyes for any disease or  
17 pathological condition.

18 (b) (1) An optometrist who is certified to use therapeutic  
19 pharmaceutical agents, pursuant to Section 3041.3, may also  
20 diagnose and treat the human eye or eyes, or any of its or their  
21 appendages, for all of the following conditions:

22 (A) Through medical treatment, infections of the anterior  
23 segment and adnexa.

24 (B) Ocular allergies of the anterior segment and adnexa.

25 (C) Ocular inflammation, *nonsurgical in cause except when*  
26 *comanaged with the treating physician and surgeon.*

27 (D) Traumatic or recurrent conjunctival or corneal abrasions  
28 and erosions.

29 (E) Corneal surface disease and dry eyes.

30 (F) Ocular pain, *nonsurgical in cause except when comanaged*  
31 *with the treating physician and surgeon.*

32 (G) Pursuant to subdivision ~~(e)~~ (f), glaucoma in patients over  
33 18 years of age, as described in subdivision ~~(i)~~ (j).

34 (H) Eyelid disorders, *including hypotrichosis and blepharitis.*

35 (2) For purposes of this section, “treat” means the use of  
36 therapeutic pharmaceutical agents, as described in subdivision (c),  
37 and the procedures described in subdivision ~~(d)~~ (e).

38 (c) In diagnosing and treating the conditions listed in subdivision  
39 (b), an optometrist certified to use therapeutic pharmaceutical  
40 agents pursuant to Section 3041.3 may use all therapeutic

1 pharmaceutical agents approved by the United States Food and  
 2 Drug Administration for use in treating eye conditions set forth in  
 3 this chapter, including ~~narcotic substances other than those listed~~  
 4 ~~in Schedule I~~ *codeine with compounds and hydrocodone with*  
 5 *compounds as listed in the California Uniform Controlled*  
 6 *Substances Act (Division 10 (commencing with Section 11000) of*  
 7 *the Health and Safety Code) and the United States Controlled*  
 8 *Substances Act (21 U.S.C. Sec. 801 et seq.). The use of these agents*  
 9 *shall be limited to three days.*

10 (d) *In any case that an optometrist consults with a physician*  
 11 *and surgeon, the optometrist and the physician and surgeon shall*  
 12 *both maintain a written record in the patient's file of the*  
 13 *information provided to the physician and surgeon, the physician*  
 14 *and surgeon's response, and any other relevant information. Upon*  
 15 *the request of the optometrist or physician and surgeon and with*  
 16 *the patient's consent, a copy of the record shall be furnished to*  
 17 *the requesting party.*

18 ~~(d)~~

19 (e) *An optometrist who is certified to use therapeutic*  
 20 *pharmaceutical agents pursuant to Section 3041.3 may also perform*  
 21 *all of the following:*

- 22 (1) *Corneal scraping with cultures.*
- 23 (2) *Debridement of corneal epithelia.*
- 24 (3) *Mechanical epilation.*
- 25 (4) *Venipuncture for testing patients suspected of having*  
 26 *diabetes.*
- 27 (5) *Suture removal, upon notification of the treating physician*  
 28 *and surgeon .*
- 29 (6) *Treatment or removal of sebaceous cysts by expression.*
- 30 (7) *Administration of oral fluorescein .*
- 31 (8) *Use of an auto-injector to counter anaphylaxis.*
- 32 (9) *Ordering of appropriate laboratory and diagnostic imaging*  
 33 *tests for conditions authorized to be treated pursuant to this*  
 34 *section.*
- 35 (10) *A clinical laboratory test or examination classified as*  
 36 *waived under CLIA and designated as waived in paragraph (9)*  
 37 *necessary for the diagnosis of conditions and diseases of the eye*  
 38 *or adnexa, or if otherwise specifically authorized by this chapter.*

39 ~~(10)~~

1 (11) Punctal occlusion by plugs, excluding laser, diathermy,  
2 cryotherapy, or other means constituting surgery as defined in this  
3 chapter.

4 ~~(11)~~

5 (12) The prescription of therapeutic contact lenses, including  
6 lenses or devices that incorporate a medication or therapy the  
7 optometrist is certified to prescribe or provide.

8 ~~(12)~~

9 (13) Removal of foreign bodies from the cornea, eyelid, and  
10 conjunctiva with any appropriate instrument other than a scalpel  
11 . Corneal foreign bodies shall be nonperforating, be no deeper than  
12 the midstroma, and require no surgical repair upon removal.

13 ~~(13)~~

14 (14) For patients over 12 years of age, lacrimal irrigation and  
15 dilation, excluding probing of the nasal lacrimal tract. The board  
16 shall certify any optometrist who graduated from an accredited  
17 school of optometry before May 1, 2000, to perform this procedure  
18 after submitting proof of satisfactory completion of 10 procedures  
19 under the supervision of an ophthalmologist as confirmed by the  
20 ophthalmologist. Any optometrist who graduated from an  
21 accredited school of optometry on or after May 1, 2000, shall be  
22 exempt from the certification requirement contained in this  
23 paragraph.

24 ~~(14)~~

25 (15) ~~Immunizations~~—*Administration of immunizations for*  
26 *influenza and shingles, Herpes Zoster Virus, and additional*  
27 *immunizations that may be necessary to protect public health*  
28 *during a declared disaster or public health emergency.*

29 ~~(15)~~

30 (16) In addition to diagnosing and treating conditions of the  
31 visual system pursuant to ~~subdivision (a) this section, testing for~~  
32 *and, diagnoses of diabetes mellitus, hypertension, and*  
33 *hyperlipidemia hypercholesterolemia.*

34 ~~(e)~~

35 (f) The board shall grant a certificate to an optometrist certified  
36 pursuant to Section 3041.3 for the treatment of glaucoma, as  
37 described in ~~subdivision (i) (j)~~, in patients over 18 years of age  
38 after the optometrist meets the following applicable requirements:

1 (1) For licensees who graduated from an accredited school of  
2 optometry on or after May 1, 2008, submission of proof of  
3 graduation from that institution.

4 (2) For licensees who were certified to treat glaucoma under  
5 this section prior to January 1, 2009, submission of proof of  
6 completion of that certification program.

7 (3) For licensees who have substantially completed the  
8 certification requirements pursuant to this section in effect between  
9 January 1, 2001, and December 31, 2008, submission of proof of  
10 completion of those requirements on or before December 31, 2009.  
11 “Substantially completed” means both of the following:

12 (A) Satisfactory completion of a didactic course of not less than  
13 24 hours in the diagnosis, pharmacological, and other treatment  
14 and management of glaucoma.

15 (B) Treatment of 50 glaucoma patients with a collaborating  
16 ophthalmologist for a period of two years for each patient that will  
17 conclude on or before December 31, 2009.

18 (4) For licensees who completed a didactic course of not less  
19 than 24 hours in the diagnosis, pharmacological, and other  
20 treatment and management of glaucoma, submission of proof of  
21 satisfactory completion of the case management requirements for  
22 certification established by the board pursuant to Section 3041.10.

23 (5) For licensees who graduated from an accredited school of  
24 optometry on or before May 1, 2008, and not described in  
25 paragraph (2), (3), or (4), submission of proof of satisfactory  
26 completion of the requirements for certification established by the  
27 board pursuant to Section 3041.10.

28 ~~(f)~~

29 (g) Other than for prescription ophthalmic devices described in  
30 subdivision (b) of Section 2541, any dispensing of a therapeutic  
31 pharmaceutical agent by an optometrist shall be without charge.

32 ~~(g)~~

33 (h) The practice of optometry does not include performing  
34 surgery. “Surgery” means any procedure in which human tissue  
35 is cut, altered, or otherwise infiltrated by mechanical or laser  
36 means. “Surgery” does not include those procedures specified in  
37 subdivision—~~(d)~~ (e). Nothing in this section shall limit an  
38 optometrist’s authority to utilize diagnostic laser and ultrasound  
39 technology within his or her scope of practice.

40 ~~(h)~~

1 (i) An optometrist licensed under this chapter is subject to the  
2 provisions of Section 2290.5 for purposes of practicing telehealth.

3 ~~(i)~~

4 (j) For purposes of this chapter, “glaucoma” means either of the  
5 following:

6 (1) All primary open-angle glaucoma.

7 (2) Exfoliation and pigmentary glaucoma.

8 ~~(j)~~

9 (k) For purposes of this chapter, “adnexa” means ocular adnexa.

10 ~~(k)~~

11 (l) In an emergency, an optometrist shall stabilize, if possible,  
12 and immediately refer any patient who has an acute attack of angle  
13 closure to an ophthalmologist.

14 SEC. 2. Section 3041.1 of the Business and Professions Code  
15 is amended to read:

16 3041.1. With respect to the practices set forth in Section 3041,  
17 optometrists diagnosing or treating eye *disease* or *diagnosing* other  
18 diseases shall be held to the same standard of care to which  
19 physicians and surgeons and osteopathic physicians and surgeons  
20 are held. An optometrist shall consult with and, if necessary, refer  
21 to a physician and surgeon or other appropriate health care provider  
22 if a situation or condition occurs that is beyond the optometrist’s  
23 ~~education and training~~ *scope of practice*.

24 SEC. 3. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

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